

WC 07-127

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STAMP AND RETURN

FCC/MELLON JUN 12 2007

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June 12, 2007

Federal Communications Commission
Wireline Competition Bureau - CPD - 214 Appls.
P.O. Box 358145
Pittsburgh, PA 15251-5145

Re: *Application to Transfer of Control of Domestic and International Section
214 Authority from CT Communications, Inc. to Windstream Corporation*

To Whom It May Concern:

Attached please find an original and 5 copies of an application for Commission consent to the transfer of control of the Section 214-authorized subsidiaries of CT Communications, Inc. ("CTC," FRN 0004215794) from CTC to Windstream Corporation (FRN 0014400220) pursuant to Section 214 of the Communications Act, as amended, 47 U.S.C. § 214.

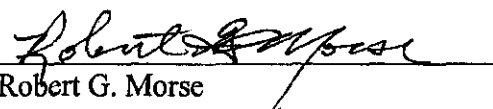
Pursuant to Section 63.04(b) of the rules, this application is submitted as a consolidated domestic and international Section 214 transfer of control application and has been filed concurrently with the International Bureau via the International Bureau Filing System. Enclosed is a completed FCC Form 159 and a check for \$965.00, payable to the Federal Communications Commission. Streamlined processing is requested pursuant to Section 63.03 of the rules.

Please contact Kathryn A. Zachem at (202) 783-4141 if there are questions concerning this application.

Respectfully submitted,

WILKINSON BARKER KNAUER, LLP

By:


Robert G. Morse

Enclosures

STAMP AND RETURN

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JUN 12 2007

READ INSTRUCTIONS CAREFULLY
BEFORE PROCEEDING

FEDERAL COMMUNICATIONS COMMISSION REMITTANCE ADVICE

Approved by OMB
3060-0589
Page: 1 of 1

(1) LOCKBOX# 358145			
SECTION A - PAYER INFORMATION			
(2) PAYER NAME (if paying by credit card enter name exactly as it appears on the card) Wilkinson Barker Knauer, LLP		(3) TOTAL AMOUNT PAID (U.S. Dollars and cents) \$965.00	
(4) STREET ADDRESS LINE NO. 1 2300 N Street, N.W.			
(5) STREET ADDRESS LINE NO. 2 Suite 700			
(6) CITY Washington		(7) STATE DC	(8) ZIP CODE 20037
(9) DAYTIME TELEPHONE NUMBER (include area code) (202) 783-4141		(10) COUNTRY CODE (if not in U.S.A.)	
FCC REGISTRATION NUMBER (FRN) REQUIRED			
(11) PAYER (FRN) 0003775731			
IF MORE THAN ONE APPLICANT, USE CONTINUATION SHEETS (FORM 159-C) COMPLETE SECTION BELOW FOR EACH SERVICE, IF MORE BOXES ARE NEEDED, USE CONTINUATION SHEET			
(13) APPLICANT NAME Windstream Corporation			
(14) STREET ADDRESS LINE NO. 1 4001 Rodney Parham Rd.			
(15) STREET ADDRESS LINE NO. 2			
(16) CITY Little Rock		(17) STATE AR	(18) ZIP CODE 72212
(19) DAYTIME TELEPHONE NUMBER (include area code) (501) 748-7000		(20) COUNTRY CODE (if not in U.S.A.)	
FCC REGISTRATION NUMBER (FRN) REQUIRED			
(21) APPLICANT (FRN)			
COMPLETE SECTION C FOR EACH SERVICE, IF MORE BOXES ARE NEEDED, USE CONTINUATION SHEET			
(23A) CALL SIGN/OTHER ID	(24A) PAYMENT TYPE CODE CUT	(25A) QUANTITY 1	
(26A) FEE DUE FOR (PTC) \$965.00	(27A) TOTAL FEE \$965.00		
(28A) FCC CODE 1 0014400220		(29A) FCC CODE 2	
(23B) CALL SIGN/OTHER ID	(24B) PAYMENT TYPE CODE	(25B) QUANTITY	
(26B) FEE DUE FOR (PTC)	(27B) TOTAL FEE		
(28B) FCC CODE 1		(29B) FCC CODE 2	
SECTION D - CERTIFICATION			
CERTIFICATION STATEMENT I, _____, certify under penalty of perjury that the foregoing and supporting information is true and correct to the best of my knowledge, information and belief.			
SIGNATURE _____		DATE _____	
SECTION E - CREDIT CARD PAYMENT INFORMATION			
MASTERCARD _____ VISA _____ AMEX _____ DISCOVER _____			
ACCOUNT NUMBER _____		EXPIRATION DATE _____	
I hereby authorize the FCC to charge my credit card for the service(s)/authorization herein described.			
SIGNATURE _____		DATE _____	

SEE PUBLIC BURDEN ON REVERSE

FCC FORM 159

FEBRUARY 2003 (REVISED)

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)	
)	
CT COMMUNICATIONS, INC.,)	File No. ITC-T/C-_____
Transferor)	
)	WC Docket No. _____
and)	
)	
WINDSTREAM CORPORATION, Transferee)	
)	
Application for Transfer of Control of)	
Domestic and International Authorization)	
Under Section 214 of the Communications)	
Act, as Amended)	
)	

To: International Bureau
Wireline Competition Bureau

APPLICATION FOR CONSENT TO TRANSFER OF CONTROL

Pursuant to Section 214 of the Communications Act of 1934, as amended (the "Act"), 47 U.S.C. § 214, and Sections 63.03, 63.04 and 63.24(e) of the rules, 47 C.F.R. §§ 63.03, 63.04 and 63.24(e), CT Communications, Inc. ("CTC" or "Transferor,"), and Windstream Corporation, ("Windstream" or "Transferee") (together "Applicants") seek consent of the Federal Communications Commission ("FCC" or the "Commission") for the transfer of ultimate control of CTC and its authorized subsidiaries from CTC as presently owned to Windstream. Various subsidiaries of CTC and Windstream are local exchange carriers, and non-dominant interexchange carriers authorized by the Commission to provide international and domestic

interstate telecommunications services.¹ A Domestic Section 214 Supplement, containing the information required by 47 C.F.R. § 63.04, is attached hereto as Exhibit A.

Applicants seek streamlined processing of this Joint International and Domestic Application pursuant to Sections 63.03 and 62.12 of the Commission's Rules.² This Application is eligible for streamlined processing pursuant to Section 63.03(b)(2)(i)-(ii) of the Commission's Rules because upon consummation of the proposed transaction, Windstream and its affiliates, combined, will have less than ten percent market share in the interstate, interexchange marketplace and will provide competitive services exclusively in areas served by dominant local carriers that are not parties to this transaction, with the exception of two markets in North Carolina where Windstream is an ILEC in a market in which CTC currently offers service as a CLEC or has a "greenfield" presence. The limited overlaps and adjacencies do not trigger any novel issues and streamlined processing is appropriate.

This Application also qualifies for streamlined treatment under Section 63.12 because: (a) neither of the Applicants is affiliated with a dominant foreign carrier; (b) Windstream will not become affiliated with any foreign carrier as a result of the proposed transaction; and (c) none of the other provisions set forth in Section 63.12(c) of the Commission's Rules, 47 C.F.R. § 63.12, apply. In support of this Application the Applicants submit the following information:

¹ CTC and its authorized wholly-owned subsidiaries provide international telecommunications services pursuant to International Section 214 authorization granted by the Commission and Section 63.21(h) of the rules. File No. ITC-214-19930405-00054. Windstream's authorized subsidiaries provide international telecommunications services pursuant to the following International Section 214 authorizations: File Nos. ITC-214-2006-0816-00433; ITC-214-20000719-00451; ITC-214-19981110-00835; ITC-214-20010802-00418; and ITC-214-20060501-00261.

² 47 C.F.R. §§ 63.03 and 63.12.

I. THE APPLICANTS

A. WINDSTREAM CORPORATION (FRN 0014400220). Windstream, a Delaware corporation headquartered in Little Rock, Arkansas, is a diversified telecommunications company that is publicly traded on the New York Stock Exchange (“NYSE”). Windstream, through its subsidiaries, provides local and long distance telephone services, network access, video services, broadband and high-speed data services to approximately 3.2 million residential and business customers primarily located in rural areas in 16 states.³ Windstream was formed on July 17, 2006 through the spin-off of ALLTEL Corporation’s landline business and its merger with Valor Communications Group (“Valor”).

B. CT COMMUNICATIONS, INC. (FRN 0004215794). CT Communications, Inc. is a North Carolina corporation headquartered in Concord, North Carolina that is publicly traded on the NASDAQ exchange. Through its subsidiaries, CTC offers its customers comprehensive packages of telecommunications services, including broadband high-speed Internet services, local and long-distance telephone services, and digital wireless voice and data services.

CTC holds a direct 100 percent interest in The Concord Telephone Company (“Concord”) (FRN 0003762010), a North Carolina corporation which provides local exchange and interexchange services to approximately 99,500 customers in North Carolina. In addition, CTC holds a direct 100 percent interest in CTC Exchange Services, Inc. (FRN 003762077), a North Carolina corporation which provides local exchange services on a facilities-based and resold basis, along with interexchange services to approximately 53,000 customers in North

³ These states are: Alabama; Arkansas; Florida; Georgia; Kentucky; Mississippi; Missouri; Nebraska; North Carolina; New York; New Mexico; Ohio; Oklahoma; Pennsylvania; South Carolina; and Texas.

Carolina and Georgia. CTC Exchange Services, Inc. in turn, is the 100 percent owner of CTC Long Distance Services, LLC, ("CTC Long Distance") (FRN 0003762028), a North Carolina limited liability company providing resold and facilities-based intrastate interexchange telecommunications and payphone services in North Carolina, South Carolina and Georgia.

II. DESCRIPTION OF THE TRANSACTION

On May 25, 2007, CTC, Windstream, and Windstream Marlin, Inc. ("Marlin"), a North Carolina corporation and wholly owned subsidiary of Windstream, signed an Agreement and Plan of Merger ("Agreement") providing for the merger of CTC and Marlin. Pursuant to the terms of the Agreement, Marlin will be merged with and into CTC, with CTC to be the surviving corporation following the closing of the merger (the "Transaction"). As a result of the merger, the separate corporate existence of Marlin will cease and CTC shall continue as the surviving corporation of the merger as a wholly owned subsidiary of Windstream. Closing of the Transaction is contingent upon, among other things, receipt of the necessary regulatory approvals from the Commission and other governmental and shareholder approvals. Because the existing stockholders of Windstream will control CTC upon consummation of the Transaction, such transfer of control will result in a substantial change in the ultimate control over CTC subsidiaries holding FCC licenses and authorizations.

III. PUBLIC INTEREST STATEMENT

The Applicants respectfully submit that the Transaction described herein will serve the public interest. Pursuant to Sections 310(d) and 214 of the Communications Act of 1934, as amended, control of the subject licensees and authorized carriers may not be transferred unless the Commission finds "that the public interest, convenience and necessity will be served

thereby.”⁴ The first step in this analysis is an evaluation of the Transferee’s qualifications. Pursuant to Section 310(d), “the Commission may not consider whether the public interest, convenience, and necessity might be served by the transfer... of the permit or license to a person other than the proposed transferee.”⁵ Windstream is legally, technically and financially qualified with regard to the instant transfer of control applications.

A. Public Interest Benefits of the Merger Generally

The proposed Transaction will provide the Applicants with access to each other’s advanced network capabilities, technical and financial strengths and complementary services, which together are expected to strengthen the Applicants’ ability to expand their offerings and provide more advanced services to a broader customer base. The proposed acquisition of CTC by Windstream will enable the customers of both companies to continue to benefit from the innovative products offered by both Applicants and to further strengthen their competitive positions. The Transaction will also combine Applicants’ wireline operations and thereby strengthen Windstream’s position as the leading communications and entertainment company serving rural America. As a result of this transaction, Windstream will serve approximately 158,000 additional local exchange customers and 29,000 additional broadband customers, nearly doubling its presence in North Carolina. Moreover, the Transaction will allow Windstream to realize significant synergies and operating efficiencies, increasing its ability to deploy innovative and advanced telecommunications offerings throughout its service area, consistent with the public interest, convenience and necessity.

⁴ 47 U.S.C. §§ 214, 310(d).

⁵ *Id.* § 310(d).

The telecommunications industry has been and continues to be subject to rapid technological advances, evolving consumer preferences, and dynamic change. The establishment of Windstream last year created an independent, stand-alone wireline-centric corporation that serves the public interest by focusing squarely on enhancing local wireline operations primarily in rural areas. Combining with CTC's markets, which share the favorable rural characteristics of Windstream's existing ILEC footprint, will enable Windstream to offer a broadened range of high quality services to CTC's local residential and business customers. A map of the Applicants' combined service area is attached hereto as Exhibit C.

Customers of the combined company will experience no less than business as usual, but very likely an improved experience, as Windstream is able to enhance service delivery, product development, and customer interaction. Both Windstream and CTC have deployed broadband services throughout many of their markets, and are leaders in broadband deployment.⁶ The merger will provide enhanced strategic, financial, and operational opportunities for each business, including improving the already significant levels of broadband penetration, and otherwise expanding and enhancing service.

B. The Merger Will be Transparent to Subscribers

The Transaction will be conducted in a manner that will be transparent to customers of CTC and Windstream. The transfer of control will not result in a change of carrier for end user customers. Following consummation of the Transaction, CTC and Windstream customers will

⁶ As of April 30, 2007, CTC had 28,100 broadband subscribers, up from 25,700 at year-end 2006. At the end of Q1 2007, Windstream had approximately 715,000 broadband subscribers, up from about 656,000 subscribers at the end of 2006. Broadband service was available to approximately 82 percent of Windstream's access lines at speeds of 3Mbps and higher (80 percent of Windstream's broadband addressable lines can obtain 3Mbps service and 22 percent can obtain 6 Mbps service. Windstream will begin to offer 10Mbps service in some markets in Q4 2007). Net broadband subscription continues to grow over time for both companies.

receive the same full range of products and services they received prior to the Transaction, at the same prices, and under the same terms and conditions. CTC will provide its customers notice of the transfer and name change (if any) via bill messages. A sample customer notice will be provided to the Commission in advance of its distribution in accordance with Section 64.1120(e) of the rules.⁷ Following consummation of the Transaction, Windstream will provide the same high quality local exchange and resold long distance service that Applicants do today, subject to the same rules, regulations, and applicable tariffs.

C. The Transaction Poses No Competitive Risks for the Domestic Interstate Market and Approval Is Consistent with Commission Precedent

The transaction will not result in harm to competition in any relevant market and will yield tangible public interest benefits. Given the increasingly competitive nature of the interstate telecommunications market, the Applicants are seeking to complete the proposed Transaction as soon as possible in order to ensure that customers and Applicants can rapidly obtain the benefits of the Transaction. Further, CTC and Windstream presently have a miniscule share of the domestic interstate interexchange market and are regulated as nondominant in that market.⁸ The Commission has already determined that combinations between nondominant carriers resulting in less than 10 percent market share of the interstate interexchange market are “extremely

⁷ See 47 C.F.R. § 64.1120(e).

⁸ See 47 C.F.R. § 63.01; *Regulatory Treatment Of LEC Provision Of Interexchange Services Originating In The LEC's Local Exchange Area and Policy And Rules Concerning The Interstate, Interexchange Marketplace*, 12 FCC Rcd. 15756, ¶ 163 (1997) (independent ILECs subject to nondominant regulatory treatment conditioned on separation requirements).

unlikely [to] result in a public interest harm” and “unlikely to raise public interest concerns.”⁹ The Applicants’ combined market share will fall well below that threshold.

With respect to the Applicants’ ILEC markets, the Commission has found that where mergers between non-BOC ILECs result in *de minimis* overlaps and no or minimal adjacencies between markets where the adjacent exchanges are very small, “no harm to competition is likely to occur.”¹⁰ Moreover, where rural and less populated areas are involved, the Commission has found that such areas “are less attractive to new entrants” and, thus, concerns relating to the loss of potential competition are even less acute.¹¹

The instant transaction will result in a comparatively small number of overlaps and adjacencies affecting a limited number of access lines. CTC and Windstream combined would hold 1067 exchange areas.¹² A limited number of these exchanges, all in North Carolina and affecting a *de minimis* number of subscribers, involve overlaps, and only 12 involve ILEC adjacencies.

⁹ *Implementation of Further Streamlining Measures for Domestic Section 214 Authorizations*, Report and Order, 17 FCC Rcd. 5517, ¶ 30 (2002) (citing to U.S. Dept. of Justice and Federal Trade Commission Horizontal Merger Guidelines, § 1.51 n.18).

¹⁰ See *Joint Applications of Global Crossing Ltd. and Citizens Communications Co.*, 16 FCC Rcd. 8507, ¶ 9 (CCB, CSB, WTB 2001) (“*Global Crossing/Citizens*”). Indeed, the Commission has approved mergers between smaller ILECs where a merger results in the loss of a competitor in an exchange area. See *Joint Applications of Telephone and Data Systems, Inc. and Chorus Communications, Ltd.*, 16 FCC Rcd. 15293, ¶¶ 8-9 (CCB, WTB 2001) (“*TDS-Chorus*”); see also *Madison River Communications Corp.*, Public Notice, WC Docket No. 07-03, DA 07-125, at 1-3 (rel. Jan. 19, 2007) (transferee provided competitive access service in transferor’s ILEC territory in one state) (“*Madison River*”), granted, Public Notice, DA 07-744 (rel. Feb. 20, 2007) (“*Madison River Grant*”).

¹¹ See *Global Crossing/Citizens* at ¶ 7 (citing *Application of GTE Corp. and Bell Atlantic Corp.*, 15 FCC Rcd. 14032, 14095 ¶ 117 (2000)). Like the *Global Crossing/Citizens* transaction, given the nature of this Transaction – involving exchanges in one state, North Carolina – this is clearly an instance in which the Commission’s extensive merger analysis previously employed in BOC-related mergers is inapplicable.

First, with respect to overlaps (with Windstream/CTC access lines, respectively, listed once for each market):

- *CLEC-CLEC Overlaps.* Winston Salem (1810/717); Greensboro (2337/2000); Huntersville (179/1913); Charlotte (10,701/20,978); and Apex (137/5). Each of these markets is large in its own right or part of a larger metropolitan area (Huntersville and Apex are in the Charlotte and Raleigh metropolitan areas, respectively) in which the Applicants' CLEC subsidiaries market principally to business customers. Applicants face competition or potential competition from AT&T, the ILEC in those markets, as well as other well-heeled facilities-based CLEC competitors, such as Level 3, Verizon, NuVox Communications, Sprint, Time Warner, US LEC, and Xspedius, all of whom have a presence in or near these markets. In contrast, Applicants' CLEC operations and presence in these areas, which lie outside their principally rural ILEC markets, is much more limited in term of facilities and subscribers.
- *ILEC-CLEC Overlap.* Mooresville (28,872/858); Indian Trail (7,050/300); Waxhaw (10,683/3); Hemby Bridge (7,603/298); Granite Quarry (7,710/1), Norwood (2,865/1), and Sanford (23,520/5).¹³ Mooresville, Indian Trail, and Hemby Bridge are in or near the Charlotte metropolitan area, where CTC offers service to principally business customers, including some residential customers in Mooresville. The remaining overlaps (Waxhaw, Granite Quarry, Norwood, and Sanford) involve clearly *de minimis* numbers of business customers. Applicants face competition from a number of actual and potential facilities-based competitors here, including AT&T (the ILEC in Charlotte and other nearby markets), as well as various CLECs.
- *ILEC-Greenfield.* Matthews (37,021/172); Indian Trail; Waxhaw; Hemby Bridge; Granite Quarry; Norwood; and Sanford.¹⁴ There are a number of facilities-based competitors in the Charlotte metropolitan area where Matthews, Indian Trail and Hemby Bridge are located, and as discussed CTC has a *de minimis* number of customers in the remaining markets. Applicants also face competition from a number of actual or potential facilities-based competitors in these markets.

¹² CTC owns 9 exchanges, and Windstream owns 1058.

¹³ As noted below, CTC maintains greenfield operations in the Indian Trail, Waxhaw, Hemby Bridge, Granite Quarry, Norwood, and Sanford exchange areas as well. CTC greenfield subscribers are included in the figures provided for ILEC-CLEC overlaps.

¹⁴ "Greenfield" markets are geographic areas which require entirely new construction of local loops, switching and other network equipment, principally to serve new residential communities but also may include new business developments as well.

- *CLEC-Greenfield.* Raleigh (5,559/2,834), Cary (607/472) and Apex are the markets in which Windstream's CLEC operations overlap CTC's "greenfield" customers. There are a number of actual or potential facilities-based competitors in these markets.
- *Other Overlaps.* Windstream has an extremely limited, non-facilities-based presence in Gastonia and Davidson, North Carolina (fewer than 100 access lines total) where CTC offers CLEC services to business customers.

With respect to ILEC adjacencies (with each Applicant's access lines):

- Windstream's Mooresville exchange (28,872) is adjacent to CTC's China Grove (9,402), and Kannapolis (18,098) exchanges.
- Windstream's Granite Quarry/Rockwell exchange (7,926) is adjacent to CTC's China Grove, Concord, Kannapolis, Mount Pleasant (2,697), and New London (2,616) exchanges.
- Windstream's Norwood exchange (2,925) is adjacent to CTC's Albemarle (13,769) and Oakboro (3,145) exchanges.
- Windstream's Ansonville exchange (1,020) is adjacent to CTC's Oakboro exchange.
- Windstream's New Salem exchange (1,207) is adjacent to CTC's Oakboro exchange.

The Commission has traditionally expressed concern regarding a reduction in the number of potential competitive entrants when large RBOCs with adjacent markets merge their operations.¹⁵ The Commission, however, has uniformly approved transactions involving a limited number of overlapping and/or adjacent exchanges affecting a limited number of access lines.¹⁶ The instant transaction clearly falls into the latter category.¹⁷ A limited number of the

¹⁵ See, e.g., *In re Applications of NYNEX Corp. and Bell Atlantic Corp.*, Memorandum Opinion and Order, 12 FCC Rcd. 19985, 19990-91 (1997); *Application of GTE Corp. and Bell Atlantic Corp.*, Memorandum Opinion and Order, 15 FCC Rcd. 14032, 14090-92 (2000); *Application of Ameritech Corp. and SBC Communications Inc.*, Memorandum Opinion and Order, 14 FCC Rcd. 14712, 14745 (1999).

¹⁶ See, e.g., *Global Crossing/Citizens* at ¶¶ 1, 5-8; Public Notice, *Wireline Competition Bureau Grants Consent for Transfer of Control of Hartman Tel. Exchanges, Inc. to Randall J. Raile and Kacey L. Raile*, WC Docket No. 04-320, DA 04-3225, n.3 (WCB rel. Oct. 13, 2004) (continued on next page)

total 1067 exchange areas involved in the transaction have overlaps. Moreover, CTC's exchanges are located in precisely the types of low-density and less populated rural areas the Commission has recognized "are less attractive to new entrants."¹⁸ Further, only a limited number of overlaps involve ILEC properties and affect a *de minimis* number of subscribers, and all are in or near metropolitan areas in which there are numerous facilities-based competitors for the business customers that are both companies' CLEC focus.¹⁹ Moreover, some of those ILEC overlaps involve greenfield markets which are more akin to ILEC-CLEC adjacencies than

("Hartman PN"); *TDS-Chorus*, 16 FCC Rcd. at 15297-99; *Madison River* at 1-3 and *Madison River Grant*; Public Notice, *Wireline Competition Bureau Grants Consent for Transfer of Control of Certain Affiliates of MJD Services Corp. to Golden West Telephone Properties, Inc.*, WC Docket No. 03-186, DA 03-3004, n.2 (WCB rel. Sept. 30, 2003) ("*MJD PN*"); *see also* Public Notice, *Wireline Competition Bureau Grants Consent for Transfer of Control of Berkshire Tel. Co. to Fairpoint Communications, Inc.*, WC Docket No. 03-184, DA 05-1095, n.5 (WCB rel. Apr. 15, 2005) (approval granted after state commission granted subject to conditions).

¹⁷ *See Global Crossing/Citizens* at ¶ 7.

¹⁸ *See Global Crossing/Citizens* at ¶ 7.

¹⁹ *See TDS-Chorus*, 16 FCC Rcd. at 15297-98 (public interest harm unlikely where CLECs serve principally business customers and where "a significant number of actual and potential competitors will remain").

overlaps.²⁰ The combined company will be a more effective competitor in those markets where one or both of Applicants are CLECs.²¹

With respect to adjacencies, only 12 ILEC exchange areas are affected – again, only one percent of the total. In contrast, *Global Crossing/Citizens* involved 71 exchanges with adjacencies.²² As noted above, the Commission has consistently determined that adjacencies such as these do not raise public interest concerns and has routinely granted applications in these circumstances.

²⁰ Applicants submit that these circumstances are more akin to an ILEC-CLEC or CLEC-CLEC “adjacency” than an ILEC-CLEC overlap, as the traditional ILEC versus CLEC distinctions relevant to competition policy are fundamentally different with respect to greenfield markets. See *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Deployment of Wireline Services Offering Advanced Telecommunications Capability*, Order on Reconsideration, 19 FCC Rcd 20293, ¶ 12 (2004) (“competitive carriers are not impaired without access to FTTC loops in greenfield deployments”); *Petition for Forbearance of the Verizon Telephone Companies Pursuant to 47 USC §160(c)*, Memorandum Opinion and Order, 19 FCC Rcd 21496, ¶¶ 9-19 (2004) (forbearing from enforcing Section 271 unbundling requirements in part for same reasons), *aff’d*, *Earthlink, Inc. v. FCC*, 462 F.3d 1 (D.C. Cir. 2006).

²¹ See *TDS-Chorus*, 16 FCC Rcd. at 15298 (transaction will “increase competition by making [combined company] a stronger competitor to” the ILEC in the affected markets).

²² *Global Crossing/Citizens* involved two companies with ILEC exchanges operating in 25 states with over two million access lines and, accounting for two other Citizens transactions, 30 states with over 3 million access lines. See *Global Crossing/Citizens* at ¶ 2; Application of Citizens Communications Company, CCB Pol No. 00-1, at 2-4 (filed Oct. 10, 2000). The instant Transaction involves ILEC properties in 16 states with a combined total of fewer than 3.4 million access lines. *Global Crossing/Citizens* involved adjacencies in four states, and involving 71 exchanges ranging from a couple hundred to nearly 300,000 access lines. See *Global Crossing Ltd. and Citizens Communications Co. Ex Parte Presentation*, CCB Pol. No. 00-1, at 5-6 and Attachment C. The overlaps and adjacencies at issue here are in one state, with overlaps affecting fewer than a dozen exchanges. Only one of the overlaps involves an ILEC and a CLEC; the remaining are CLEC-CLEC, CLEC-greenfield, or ILEC-greenfield overlaps, ranging from fewer than 200 access lines to approximately 37,000 access lines (only three overlaps affect over 10,000 access lines, one affects approximately 5,500, and the remainder affect fewer than 2,500 each). Only 12 ILEC exchanges involve adjacencies, ranging from just over 1,000 access lines to just over 40,500 access lines each.

D. International Section 214 Public Interest Considerations

Approval of the proposed transaction (i) will promote and preserve competition in the international telecommunications marketplace and (ii) will ensure that Windstream has the necessary authority to continue to offer seamless international services to existing CTC customers. The proposed transaction poses no risk of anticompetitive impact on the U.S. international telecommunications marketplace. Applicants together hold only a miniscule share of the international telecommunications market and therefore the Applicants would have no ability to adversely affect competition.

In addition, the Commission's principal concern for "the exercise of foreign market power in the U.S. market" is that such market power "could harm U.S. consumers through increases in prices, decreases in quality, or reductions in alternatives in end user markets."²³ As the Commission explained further, "generally, this risk occurs when a U.S. carrier is affiliated with a foreign carrier that has sufficient market power on the foreign end of a route to affect competition adversely in the U.S. market."²⁴ As discussed herein, Windstream does not currently have and will not acquire any affiliations with foreign carriers as a result of this transaction, much less any with market power. Thus, consumers would not be harmed by the transaction.

IV. SECTION 63.24 INFORMATION

In accordance with Section 63.24(e) of the Commission's rules, 47 C.F.R. § 63.24(e), the Applicants submit the following information in support of the instant application. Information is

²³ *Rules and Policies on Foreign Participation in the U.S. Telecommunications Market; Market Entry and Regulation of Foreign-Affiliated Entities*, Report and Order and Order on Reconsideration, 12 FCC Red. 23891, 23951-54 (1997).

²⁴ *See id.*

provided responsive to the provisions of Section 63.18 of the rules, paragraphs (a) through (p), as applicable.

Information for Transferor and Transferee

(a) Name, address, and telephone number

Transferor:

CT Communications, Inc.
1000 Progress Place, NE
Concord, NC 28025
Tel: (704) 722-2500
Fax: (704) 722-2558

Authorized Carriers (with FRN Information):

CT Communications, Inc., FRN 0004215794 (parent company)
The Concord Telephone Company, FRN 0003762010
CTC Exchange Services, Inc., FRN 0003762077
CTC Long Distance Services, LLC, FRN 0003762028
Carolina Personal Communications, Inc., FRN 0005485032

Transferee:

Windstream Corporation
4001 Rodney Parham Rd.
Little Rock, AR 72212
(501) 748-7000
(501) 748-7996 (Fax)

(b) Citizenship

Transferor:

CT Communications, Inc. is a North Carolina Corporation.

Authorized Carriers:

The Concord Telephone Company, is a North Carolina Corporation.

CTC Exchange Services, Inc., is a North Carolina Corporation.

CTC Long Distance Services, LLC, is a North Carolina Limited Liability Company.

Carolina Personal Communications, Inc., is a North Carolina Corporation.

Transferee:

Windstream is a Delaware Corporation.

(c) Contact Information

For the Transferor and Authorized Carriers:

Ross A. Buntrock
Womble Carlyle Sandridge & Rice PLLC
1401 Eye Street, NW—Seventh Floor
Washington, DC 20005
Tel: (202) 857-4479
Fax: (202) 261-0007
Email: rbuntrock@wcsr.com

For the Transferee:

Eric Einhorn
Vice President of Federal Government Affairs
Windstream Corporation
1155 15th Street, NW Suite 1002
Washington, DC 20005
Tel: (202) 223-7668
Fax: (202) 223-7669
Email: eric.n.einhorn@windstream.com

With a copy to

Kathryn A. Zachem
Wilkinson Barker Knauer, LLP
2300 N Street, NW Suite 700
Washington, DC 20037
Tel: (202) 783-4141
Fax: (202) 783-5851
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(d) International Section 214 Authorizations

Authorized Carriers:

CT Communications, Inc., ITC-214-19930405-00054
The Concord Telephone Company, File No. ITC-214-19930405-00054
CTC Exchange Services, Inc., File No. ITC-214-19930405-00054
CTC Long Distance Services, LLC, File No. ITC-214-19930405-00054
Carolina Personal Communications, Inc., File No. ITC-214-19930405-00054

Transferor:

CT Communications, Inc., ITC-214-19930405-00054.

Transferee:

Windstream holds no international Section 214 authorization in its own right.²⁵

Information for Transferee

(h) Ten Percent or Greater Interest Holders

Windstream will remain post-closing a publicly-traded company with no 10 percent or greater interest holders.

(i) Foreign Carrier Affiliation Certification

Windstream certifies that it will have no foreign carrier affiliations upon consummation of the transaction.

(j) Foreign Carrier and Destination Countries

Windstream certifies that upon consummation of the transaction (1) it will not be a foreign carrier, (2) it does not control any foreign carriers, (3) no entity that will own more than 25 percent of or control Windstream controls a foreign carrier, and (4) two or more foreign carriers (or parties that control foreign carriers) do not own, in the aggregate, more than 25 percent of Windstream.

(k) WTO Membership of Destination Countries

Not applicable.

(l),(m) Nondominant Regulatory Classification

Not applicable. As Windstream will have no foreign carrier affiliations, it is entitled to continued nondominant regulatory classification pursuant to Section 63.10(a)(1) of the rules, 47 C.F.R. § 63.10(a)(1).

(n) Special Concessions Certification

Windstream certifies that it has not agreed to accept special concessions directly or indirectly from any foreign power with respect to any U.S. international route where the foreign

²⁵ As discussed previously, certain Windstream subsidiaries hold such authority. *See supra* note 1.

carrier possesses market power on the foreign end of the route and will not enter into such agreements in the future.

(o) Federal Benefits/Anti-Drug Abuse Act of 1988 Certification

Applicants certify pursuant to Sections 1.2001 through 1.2003 of the rules, 47 C.F.R. § 1.2001-1.2003, that no party to the application is subject to a denial of Federal Benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. § 862.

(p) Eligibility for Streamlined Processing

As Windstream is not a foreign carrier and does not have any foreign carrier affiliations, the instant application qualifies for streamlined processing pursuant to Section 63.12 of the rules, 47 C.F.R. § 63.12.

V. TRANSFER OF CONTROL OF DOMESTIC SECTION 214 AUTHORITY

Pursuant to Section 63.04(b) of the rules, 47 C.F.R. § 63.04(b), information responsive to Section 63.04(a)(6)-(a)(12) of the rules is provided in Exhibit A.

VI. CONCLUSION

For the foregoing reasons, Applicants request Commission consent to the transfer of control of CTC and its subsidiaries to Windstream in connection with the transaction described herein.

Respectfully submitted,

WINDSTREAM CORPORATION

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June 12, 2007

EXHIBIT A

Transfer of Control of Domestic Section 214 Authority Information Responsive to Section 63.04(a)(6)-(a)(12) of the Rules

1. Description of Transaction (§ 63.04(a)(6))

The proposed transaction is described in Section II of the Application.

2. Description of Geographic Service Area and Services in Each Area (§ 63.04(a)(7))

Applicants' wireline domestic interstate and international services are described in detail in Sections I and III of the Application. A map showing the parties' ILEC service areas is attached as Exhibit C hereto. CTC and Windstream subsidiaries both presently offer resold domestic interstate and international interexchange services in their service territories, and Windstream subsidiaries will continue to offer such services after consummation of the merger.

3. Eligibility for Streamlined Processing (§ 63.04(a)(8))

Applicants request that the Commission exercise its discretion to apply the streamlined procedures of Section 63.03(a) of the rules to the instant application.²⁶ This application presents no "novel questions of fact, law, or policy which cannot be resolved under outstanding precedents and guidelines."²⁷ The accompanying international Section 214 application is subject to streamlined processing pursuant to Section 63.12, and the associated Title III applications are

²⁶ See *Implementation of Further Streamlining Measures for Domestic Section 214 Authorizations*, Report and Order, 17 FCC Rcd. 5517, ¶ 28 (2002) ("2002 Streamlining Order"). Should the Commission decide not to treat the instant application as streamlined, the parties nonetheless submit that an abbreviated public comment cycle and expeditious Commission review process is appropriate under the circumstances. See *Hartman PN* (public comment cycle concluded 21 days after public notice, grant issued 38 days after public notice); *MJD PN* (public comment cycle concluded 21 days after public notice, grant issued 33 days after public notice).

²⁷ See 2002 Streamlining Order at ¶ 28.

subject to expedited approval processes.²⁸ Thus, streamlined processing of the instant application will not complicate the Commission's review of the associated international Section 214 and Title III applications.

Under the Commission's Part 63 rules, where the transferee, upon consummation, would: (1) have a market share in the interstate, interexchange market of less than 10 percent; (2) provide competitive telephone exchange services or exchange access services (if at all) exclusively in geographic areas served by a dominant LEC not a party to the transaction; and (3) where both parties are independent ILECs, have fewer than 2 percent of the nation's subscriber lines with no overlapping or adjacent service areas, then streamlined processing presumptively applies.²⁹ But for the small number of adjacent and overlapping ILEC markets, the Applicants would be presumptively entitled to streamlining, as Windstream and CTC combined will hold far less than 10 percent of the interstate interexchange market and under two percent of the nation's aggregate installed subscriber lines.³⁰ There are only *de minimis* overlaps between Windstream's and CTC's LEC markets which, as discussed in Section III of the Application, raise no novel issues of law or policy.³¹ Under the circumstances, streamlined processing is appropriate.

4. Other Related Applications (§ 63.04(a)(9))

Related to the instant Application are applications to transfer control of various Title III wireless authorizations held by CTC subsidiaries to Windstream.

²⁸ See Application at § IV (discussing streamlined eligibility under 47 C.F.R. § 63.12); 47 C.F.R. 1.948(j)(2). The Wireline Competition Bureau may grant the instant application under streamlined review conditioned on completion of related reviews by the International and Wireless Telecommunications Bureaus and without prejudice to the outcome of those proceedings. See *2002 Streamlining Order* at ¶ 23.

²⁹ 47 C.F.R. § 63.03(b)(2)(iii).

³⁰ See Application at § III.

5. Statement of Imminent Business Failure (§ 63.04(a)(10))

Not applicable.

6. Separately Filed Waiver Requests (§ 63.04(a)(11))

Not applicable.

7. Public Interest Statement (§ 63.04(a)(12))

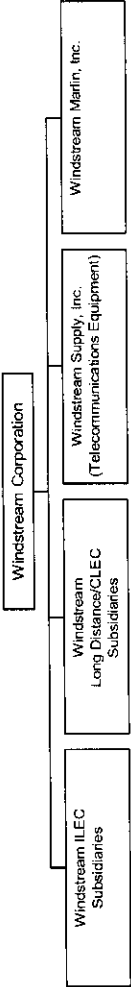
See Section III of the Application.

³¹ *See id.*

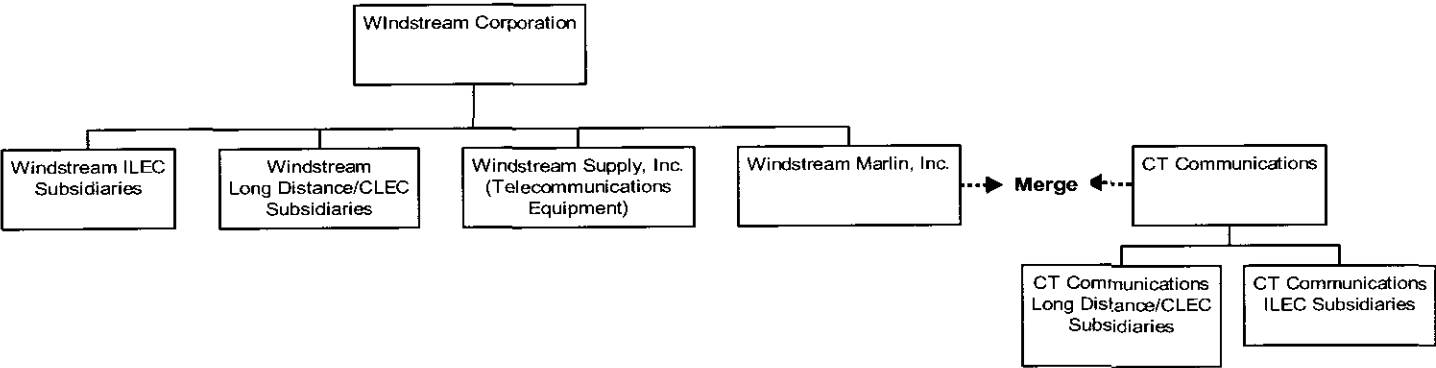
EXHIBIT B

Diagrams Illustrating the Transaction

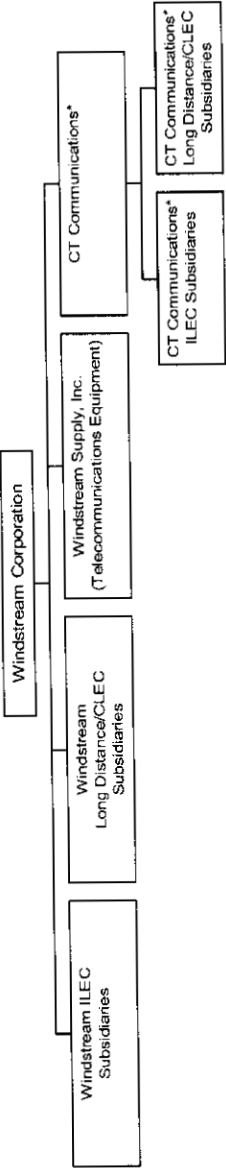
PRE-MERGER CORPORATE STRUCTURE



MERGER CORPORATE STRUCTURE



POST-MERGER CORPORATE STRUCTURE



*Actual names are yet to be determined.

EXHIBIT C

Service Area Coverage Map

